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Remarks

Claims 1-12, 18, 19, and 21-27 are currently pending in the application. No amendments are presented with this Supplemental Reply.

Applicants respectfully request reconsideration and further examination of the application in view of the second Declaration submitted concurrently herewith and remarks below.

Interview

Applicants gratefully acknowledge the Interview between Applicants' undersigned representative, Paul J. Parins, and Examiner Tran on August 20, 2008.

Mr. Parins noted that the previous Office Action suggests that because the first Declaration of David J. Domingues compared one example of the Freyn et al. reference, the Declaration is insufficient (see page 3, second paragraph of the Office Action). Mr. Parins suggested comparing additional Examples of the Freyn et al. reference to help support Applicants' position that the Freyn et al. reference does not inherently teach a dough composition that includes the combination of yeast and chemical leavening agent in amounts such that the dough composition can "proof" at a temperature in the range from 32°F to 46°F. Examiner Tran indicated that she would consider such additional Examples.

Mr. Parins also noted that claims 1, 12, and 21 were amended in the Response filed August 18, 2008, to clarify that the yeast and chemical leavening agent are each present in an amount such that the dough composition can proof at a temperature in the range from 32°F to 46°F.

Second Declaration of David J. Domingues

As referenced in the Interview Section above, a Second Declaration Under 37 C.F.R. §1.132 by David J. Domingues is concurrently submitted with this Supplemental Reply to factually support Applicant's position with respect to the §102 and §103 rejections below.

Rejection Under 35 U.S.C. §102

Claims 1, 2, 5, 7, 8, and 10-12 stand rejected under 35 U.S.C. §102(b) as being anticipated by Freyn et al. (U.S. Pat. No. 5,451,417).

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Applicants respectfully traverse this rejection because the Freyn et al. reference does not inherently teach a dough composition that includes the combination of yeast and chemical leavening agent in amounts such that the dough composition can "proof" at a temperature in the range from 32°F to 46°F.

The RCE Submission and Declaration of David J. Domingues that were filed with the Request for Continued Examination on March 7, 2008, and the Response filed August 18, 2008, are incorporated herein by reference. It is noted that the Declaration of David J. Domingues that was filed on March 7, 2008, is referred to herein as the "first" Declaration and that the Declaration of David J. Domingues concurrently submitted herewith is referred to as the "second" Declaration.

Independent claims 1 and 12 each feature an unproofed, frozen dough that includes the combination of yeast and chemical leavening agent, where the yeast and chemical leavening agent are in amounts such that the dough composition can "proof" at a temperature in the range from 32°F to 46°F. "Proof" means that the dough

- increases in volume by 50% or more; and
- has a raw specific volume in the range of from about 1.5 to about 3 cubic centimeters per gram (see the specification at, e.g., page 6, lines 16-24).

The previous Office Action suggests that because the first Declaration compared one example of the Freyn et al. reference, the Declaration is insufficient (see page 3, second paragraph of the Office Action). As mentioned above, a second Declaration is submitted herewith showing three additional examples of the Freyn et al. reference. The three additional Examples failed to "proof" (as defined in Applicants' specification) at a temperature in the range from 32°F to 46°F. As shown in numbered paragraph 8 of the second Declaration, the Freyn et al. doughs increased in volume by less than 50% and had a raw specific volume less than 1.5 cc/g at 35°F, 40°F, and 45°F.

Claims 1, 2, 5, 7, 8, and 10-12 are also nonobvious over Freyn et al. There is no apparent reason or benefit why one of skill in the art would have modified the Freyn et al. reference to provide a dough having a combination of yeast and chemical leavening agent in amounts such that the dough can proof at a temperature in the range from 32°F to 46°F because the Freyn et al.

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reference is directed to freezer-to-oven doughs. Freezer-to-oven doughs are formulated to leaven at oven temperatures directly from frozen conditions, without “thawing and/or proofing” (see Freyn et al. at, e.g., col. 2, lines 16-29, and Examples 1-7).

Accordingly, it is respectfully requested that the rejection of claims 1, 2, 5, 7, 8, and 10-12 under 35 U.S.C. §102(b) as being anticipated by Freyn et al. be withdrawn.

Rejection Under 35 U.S.C. §103

Claims 3, 4, 6, 9, 18, 19, and 21-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Freyn et al.

Applicants respectfully traverse this rejection because a dough composition that includes yeast and chemical leavening agent in amounts such that the dough composition can “proof” at a temperature in the range from 32°F to 46°F would not have been obvious over Freyn et al.

Claims 3, 4, 6, and 9, depend from claim 1 and claims 18 and 19 depend from claim 12. As discussed in the 102 rejection above, claims 1 and 12 are considered patentable over Freyn et al. Likewise, claims 3, 4, 6, 9, 18, and 19 are considered patentable over Freyn et al.

Similar to independent claims 1 and 12, independent claim 21 features an unproofed, frozen dough that includes the combination of yeast and chemical leavening agent, where the yeast and chemical leavening agent are in amounts such that the dough composition can “proof” at a temperature in the range from 32°F to 46°F. Claim 21 also features that the yeast is present in an amount of from 1 to 4 parts by weight yeast on a fresh crumbled yeast basis per 100 parts by weight of flour.

As discussed above with respect to claims 1 and 12, the Freyn et al. reference does not inherently teach a dough composition that includes the combination of yeast and chemical leavening agent in amounts such that the dough composition can “proof” at a temperature in the range from 32°F to 46°F. In addition, there is no apparent reason or benefit why one of skill in the art would have modified the Freyn et al. reference to provide a dough having a combination of yeast and chemical leavening agent in amounts such that the dough can proof at a temperature in the range from 32°F to 46°F because the Freyn et al. reference is directed to freezer-to-oven doughs.

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Accordingly, it is respectfully requested that the rejection of claims 3, 4, 6, 9, 18, 19, and 21-23 under 35 U.S.C. §103(a) as being unpatentable over Freyn et al. be withdrawn.

Conclusion

In view of the foregoing, it is respectfully submitted that the Application is in condition for allowance, and respectfully requested that the Application be passed to issue. The Examiner is invited to telephone the Applicants' undersigned representative in the event that such communication is deemed to expedite prosecution of this application.

Respectfully Submitted,

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